

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

STATES OF NEW YORK,
CONNECTICUT, NEW JERSEY,
RHODE ISLAND and WASHINGTON,
and COMMONWEALTHS OF
MASSACHUSETTS and VIRGINIA,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
JUSTICE; and JEFFERSON B.
SESSIONS III, in his official capacity as
Attorney General of the United States,

Defendants.

No. 18-cv-6471 (ER)

CITY OF NEW YORK

Plaintiff,

v.

JEFFERSON B. SESSIONS III, in his
official capacity as Attorney General of
the United States of America, and the
UNITED STATES DEPARTMENT OF
JUSTICE,

Defendants.

No. 18-cv-6474 (ER)

DECLARATION OF MARY TRAVIS BASSETT

I, Mary Travis Bassett, declare as follows:

1. I am the Commissioner of the New York City Department of Health and Mental Hygiene (“DOHMH” or “Department”). I have served in this position since February 2014. A

copy of my full curriculum vitae is attached to this Declaration as Exhibit A.

2. DOHMH is one of the largest public health agencies in the world. It is responsible for protecting and promoting the health of everyone who lives in, works in or visits New York City. The federal government's attempt to force the City of New York ("City") to cooperate with its immigration enforcement efforts and to allow City employees, at their own discretion, on City time, and based on information obtained in the course of their jobs, to share information about people's immigration status with federal immigration authorities compromises DOHMH's ability to fulfill its responsibility.

3. There are federal, state and city laws, rules and regulations governing the confidentiality of information we have regarding the individuals we serve. Any risk to the assurance of confidentiality that we provide to our patients and clients creates enormous risk that these individuals will no longer seek the care they need, or share information necessary to protect the public health.

4. DOHMH takes many steps to train its employees about the importance of maintaining the confidentiality of the information it obtains regarding our patients and clients. Any suspected breach of such confidentiality is taken very seriously by DOHMH, investigated thoroughly and appropriate action taken (which could include disciplinary action against an employee). I have visited many of DOHMH's clinics and programs throughout the City and have spoken with staff and people who use DOHMH's services. Based on these observations and conversations, I have seen that the protection of confidential information, including, sexual orientation, status as a victim of domestic violence, gender identity and immigration status, is very important to the New Yorkers who use our services and interact with our public health workers. People will be afraid to interact with DOHMH if they believe that their confidential information, including immigration status, may be disclosed to others, such as the federal immigration authorities, without their consent or knowledge. Some people will in fact refuse services, including services like immunizations, if they believe that DOHMH employees may disclose their information to Immigration and Customs Enforcement ("ICE"). Others will refuse

to cooperate with public health investigations or will refuse to provide complete information if they fear that cooperating could lead to disclosures to federal immigration authorities. By contrast, when people understand the confidentiality policies that apply to DOHMH, they are more willing to interact with us. If people refuse services or refuse to cooperate with DOHMH out of fear, there is a negative impact on the City's health as a whole.

5. DOHMH is responsible for controlling communicable and chronic diseases and conditions. It often must investigate and stop potential outbreaks of communicable diseases. Cooperation by the community is key to the success of these investigations; the people whom DOHMH interviews must feel confident that cooperating with the Department's disease investigators will not adversely affect them, and they must know that any information they share with DOHMH will be maintained with the utmost confidentiality.

6. If City employees, including the Department's disease investigators, are permitted to report confidential information such as immigration status to ICE—contrary to City policy and law—DOHMH's ability to investigate outbreaks and to trace the possible contacts of disease cases will be compromised. Instead of assuring people that the critical information they are sharing with the health department will be kept confidential in the course of a public health investigation, City workers would have to inform people that some information may be disclosed to ICE. Based on my observations, people will be less likely to share information with us if the confidentiality of their information cannot be assured.

7. DOHMH maintains and operates clinics that offer diagnosis, treatment and referral for individuals with sexually transmissible diseases, HIV and tuberculosis. It is frequently necessary that DOHMH learn the identities of persons with whom a patient has been in contact. These patients must know that the information they are being asked to provide will be kept confidential and used for public health purposes only, otherwise the histories DOHMH collects are likely not to be complete or accurate. For example, if patients fear that DOHMH employees may share immigration status information with ICE, they are likely to omit from their contacts any persons they believe or assume, correctly or not, could be undocumented.

8. DOHMH also provides many services to children and other vulnerable people in the community that advance the City's public health across the board. The public benefit of these programs will not be fully realized if City residents avoid engaging with public health authorities due to fears about confidentiality or concerns about the City's role in immigration enforcement.

9. DOHMH oversees the Early Intervention program in New York City. It supports infants and children with developmental delays and helps them realize their full potential. It reduces the likelihood of delays among at-risk children, assists and empowers families to meet their child's needs and entitles children – regardless of race, ethnicity or income – to services through the program. Fearing that confidential information including documentation status may be reported by a city employee, families are less likely to take advantage of the program even for children who were born in the United States.

10. The Office of School Health is a joint program of the Department of Education and DOHMH. It promotes the health of the 1.3 million schoolchildren enrolled in approximately 1800 public and non-public schools in New York City. Services to students include management of chronic health problems, preventive health screenings, urgent care, medication administration, preventive counseling and health education. These services, too, are less likely to be accessed if families believe that their utilization of them may lead to the disclosure of confidential information, including immigration status.

11. DOHMH offers immunizations to adults and children who cannot otherwise access them. Increasing the number of people who are immunized protects the health of all New Yorkers. Yet, fewer people are likely to come forward to be immunized if they believe that DOHMH employees might report their documentation status to others. Similarly, DOHMH provides services for newborns and pregnant women through its Newborn Home Visiting Program and Nurse Family Partnership Program. These programs, too, are less likely to be utilized if a recipient believes that accepting the service might result in their immigration status being disclosed.

12. DOHMH has made advancing health equity central to our mission and as part of our work we have strengthened efforts to engage immigrant communities in addressing public health issues. We know the importance of tailoring our services based on the linguistic and cultural needs of New Yorkers. Evaluations of our programs have shown that outreach to and engagement with immigrant communities can lead to improved and increased access to health care, which benefits immigrant communities and all City residents.

13. A perception that the City regularly enforces immigration laws on behalf of the federal government or generally allows employees to communicate confidential information, such as immigration status, to federal immigration authorities would likely lead residents who would otherwise participate in our programs to avoid contact with DOHMH. This will hurt not only the health of the City residents who fail to seek care, but City residents as a whole.

Pursuant to 28 U.S.C. 5 1746, I declare under penalty of perjury under the laws of the State of New York and the United States that the foregoing is true and correct.

August 16, 2018
Date

Mary J. Bassett
Mary Travis Bassett